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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

MIKE GLEASON, Chairman
WILLIAM A. MUNDELL
JEFF HATCH-MILLER
KRISTIN K. MAYES
GARY PIERCE

Arizona Corporation Commission

DOCKETED

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In the matter of

KENNETH HOWARD FRALEIGH and
LINDA JEAN FRALEIGH, husband and
wife,

Respondents.

DOCKET NO. S-20551A-07-0521

DECISION NO. 70219

**ORDER TO CEASE AND DESIST, ORDER
OF RESTITUTION, ORDER FOR
ADMINISTRATIVE PENALTIES AND
CONSENT TO SAME**

Respondents KENNETH HOWARD FRALEIGH AND LINDA JEAN FRALEIGH ("RESPONDENTS") elect to permanently waive any right to a hearing and appeal under Articles 11 and 12 of the Securities Act of Arizona, A.R.S. § 44-1801 *et seq.* ("Securities Act") with respect to this Order To Cease and Desist, Order of Restitution, Order for Administrative Penalties and Consent to Same ("Order"). RESPONDENTS admit the jurisdiction of the Arizona Corporation Commission ("Commission"); neither admit nor deny the Findings of Fact and Conclusions of Law contained in this Order; and consent to the entry of this Order by the Commission.

I. FINDINGS OF FACT

1. At all times material hereto, KENNETH HOWARD FRALEIGH ("FRALEIGH") and LINDA JEAN FRALEIGH were residents of Arizona and were not registered as securities salespersons.

1 2. At all times material hereto, FRALEIGH was married to LINDA JEAN
2 FRALEIGH. All action taken by FRALEIGH was in furtherance of and for the benefit of the
3 marital community.

4 3. In approximately May 2005, RESPONDENTS were approached by their son in law,
5 Maurice McCleod ("McCleod"), regarding an opportunity to invest in real estate. McCleod resided
6 in California and was associated with Pacific Wealth Management, L.L.C. ("PWM") through March
7 29, 2007. PWM is a Nevada limited liability company that conducted business in Riverside County,
8 California. PWM is not affiliated with and is separate and distinct from a limited liability company,
9 Pacific Wealth Management, L.L.C., an investment adviser registered with the State of California. In
10 late 2006, the registered investment adviser obtained a temporary restraining order preventing PWM
11 from using the Pacific Wealth Management name.

12 4. McCleod represented to RESPONDENTS that PWM was a real estate consulting firm
13 and assisted with real estate transactions.

14 5. From approximately May 2005 to December 2006, PWM and/or at least one of its
15 related entities conducted investment seminars throughout California and, with the assistance of
16 FRALEIGH, in Tucson, Arizona. PWM's related entities include, but are not limited to, Stonewood
17 Consulting Inc., Total Return Fund, L.L.C., Jovane Investments, Sunburst Financial Systems, Inc.
18 and Oetting Enterprises, Inc. Representatives from PWM including, but not limited to, McCleod,
19 James Duncan, Hendrix Montecastro and Charlie Choi, organized and attended the seminars.

20 6. RESPONDENTS agreed to invest with PWM in May 2005. By August 2006,
21 RESPONDENTS had purchased five properties through PWM.

22 7. To become a client of PWM required adherence to PWM's three rules which were,
23 "They make all decisions, whatever they say I do, and it's a three-year commitment."

24 8. After investing himself, FRALEIGH began to explain to family and friends details of
25 the investments he had made through PWM and its related entities.
26

1 9. PWM designated FRALEIGH as a "referral partner." FRALEIGH provided
2 individuals with PWM business cards with his name printed on them and acted as a liaison between
3 California representatives of PWM and individuals to whom he had communicated information about
4 the program.

5 10. FRALEIGH's communication included sharing with friends and family that he had
6 invested with PWM, suggesting to them that they attend the investment seminars and offering them
7 an opportunity to invest. FRALEIGH provided his own testimonial at the seminars related to his
8 experience investing with PWM.

9 11. In exchange for FRALEIGH's efforts, he was compensated by PWM and its related
10 entities.

11 12. FRALEIGH failed to inform individuals he spoke to about the program that he was
12 being compensated for his services.

13 13. The security initially communicated to individuals by FRALEIGH was an investment
14 contract comprised of residential real estate ("real estate program") through a company known as
15 Stonewood Consulting, Inc. ("Stonewood"). Beginning in early 2006, as a result of Stonewood's
16 poor reputation in the real estate community, PWM began offering an opportunity to participate in a
17 program in which PWM (either directly or through an affiliated entity) would use the investor's credit
18 to buy real estate.

19 14. PWM and its related entities located the real estate to be purchased, arranged the
20 financing, obtained the appraisals and ultimately purchased the residential real estate to be held in the
21 investor's name. Based on his experience, FRALEIGH explained to individuals and gave testimonial
22 at seminars conducted by PWM that the properties being purchased would be rented until such time
23 as their value appreciated to the point that they could then be sold with the investors realizing the
24 increase in the value of the real estate.

25 15. As was true with FRALEIGH's own investment, investors had no input into the initial
26 selection of the properties to be purchased, the renters who would occupy the properties, the property

1 maintenance company, the title company, the mortgage company or the appraiser. Investors were
2 presented with real estate closing documents and told where to sign. Investors, including
3 FRALEIGH, were not responsible for deciding when the homes would be sold. In most instances,
4 investors did not see the appraisals performed on the properties being purchased in their names. The
5 lack of investor input resulted from investors' adherence to PWM's three rules.

6 16. FRALEIGH explained and gave testimonial to individuals, that PWM would make
7 monthly payments to the investor to cover mortgage payments and expenses. The majority of
8 individuals who invested in the real estate program purchased multiple residences.

9 17. FRALEIGH had not obtained financial information from PWM and its related
10 entities.

11 18. The transactions to close the purchase of real estate by investors through the real
12 estate program and the refinancing by investors of their principal residence were structured to
13 generate excess funds that would be wired directly to PWM or its related entities.

14 19. PWM and its related entities ceased making payments to investors to cover their debt
15 payments in late 2006.

16 20. In addition to residential real-estate investments and in an effort to raise additional
17 cash to offset the effects of the slowing real estate market, the principals in PWM created an
18 investment fund called Total Return Fund, L.L.C. ("TRF"). TRF alleged that it would use investor
19 cash to buy distressed properties and businesses at a deep discount, rehab the property or improve the
20 business as needed, and sell it for a profit. In the summer of 2006, PWM began to apply for credit
21 cards and/or lines of credit in investors' names. In many instances, application was made without the
22 prior consent of the investor. FRALEIGH explained to individuals how he had invested in securities
23 with TRF through the use of line(s) of credit.

24 21. To generate the cash required to invest with TRF, FRALEIGH described to investors
25 how they could obtain cash advances against lines of credit, and invest the cash in TRF. TRF was
26 described to investors as a short-term investment opportunity offering an extremely high return.

1 Several investors, after speaking with FRALEIGH opened credit card accounts and lines of credit and
2 requested cash advances and loan amounts which were subsequently forwarded to PWM and it
3 related entities such as TRF.

4 **II. CONCLUSIONS OF LAW**

5 1. The Commission has jurisdiction over this matter pursuant to Article XV of the
6 Arizona Constitution and the Securities Act.

7 2. FRALEIGH offered or sold securities within or from Arizona, within the meaning
8 of A.R.S. §§ 44-1801(15), 44-1801(21), and 44-1801(26).

9 3. FRALEIGH violated A.R.S. § 44-1841 by offering or selling securities that were
10 neither registered nor exempt from registration.

11 4. FRALEIGH violated A.R.S. § 44-1842 by offering or selling securities while
12 neither registered as dealers or salesmen nor exempt from registration.

13 5. FRALEIGH violated A.R.S. § 44-1991 by making untrue statements or misleading
14 omissions of material facts including, but not limited to, failing to inform potential investors that he
15 was being compensated for his services and failing to provide potential investors with any salient
16 financial information related to PWM and its related entities.

17 6. FRALEIGH's conduct is grounds for a cease and desist order pursuant to A.R.S.
18 § 44-2032.

19 7. FRALEIGH's conduct is grounds for an order of restitution pursuant to A.R.S. §
20 44-2032.

21 8. FRALEIGH's conduct is grounds for administrative penalties under A.R.S. § 44-
22 2036.

23 **III. ORDER**

24 THEREFORE, on the basis of the Findings of Fact, Conclusions of Law, and
25 RESPONDENTS' consent to the entry of this Order, attached and incorporated by reference, the
26

1 Commission finds that the following relief is appropriate, in the public interest, and necessary for
2 the protection of investors:

3 IT IS ORDERED, pursuant to A.R.S. § 44-2032, that RESPONDENTS, and any of
4 RESPONDENTS' agents, employees, successors and assigns, permanently cease and desist from
5 violating the Securities Act.

6 IT IS FURTHER ORDERED that RESPONDENTS comply with the attached Consent to
7 Entry of Order.

8 IT IS FURTHER ORDERED, pursuant to A.R.S. § 44-2032, that RESPONDENTS and the
9 marital community of FRALEIGH and LINDA JEAN FRALEIGH shall jointly and severally pay
10 restitution to the Commission in the amount of \$12,000 representing the amount earned in
11 connection with the sale of the securities in this matter as reflected in the records of the
12 Commission. Payment shall become immediately due and payable upon entry of this Order. Any
13 amount outstanding shall accrue interest at the rate of 10% per annum from the date of this Order
14 until paid in full. Payment shall be made to the "State of Arizona" to be placed in an interest-
15 bearing account controlled by the Commission. The Commission shall disburse the funds on a
16 pro-rata basis to investors shown on the records of the Commission. Any restitution funds that the
17 Commission cannot disburse because an investor refuses to accept such payment shall be disbursed
18 on a pro-rata basis to the remaining investors shown on the records of the Commission. Any funds
19 that the Commission determines it is unable to or cannot feasibly disburse shall be transferred to
20 the general fund of the State of Arizona.

21 IT IS FURTHER ORDERED, pursuant to A.R.S. § 44-2036, that RESPONDENTS shall
22 pay an administrative penalty in the amount of \$15,000. Payment shall be made to the "State of
23 Arizona." Any amount outstanding shall accrue interest at the rate of 10% per annum from the
24 date of this Order until paid in full. The payment obligations for these administrative penalties
25 shall be subordinate to any restitution obligations ordered herein and shall become immediately
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1 due and payable only after restitution payments have been paid in full or upon RESPONDENTS'
2 default with respect to RESPONDENTS' restitution obligations.

3 For purposes of this Order, a bankruptcy filing by any of the RESPONDENTS shall be an
4 act of default. If any RESPONDENT does not comply with this Order, any outstanding balance
5 may be deemed in default and shall be immediately due and payable.

6 IT IS FURTHER ORDERED, that if any RESPONDENT fails to comply with this Order,
7 the Commission may bring further legal proceedings against that RESPONDENT, including
8 application to the superior court for an order of contempt.

9 IT IS FURTHER ORDERED that this Order shall become effective immediately.

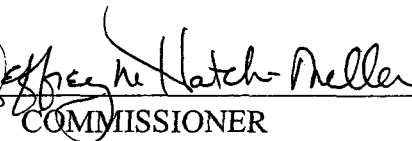
10 BY ORDER OF THE ARIZONA CORPORATION COMMISSION

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CHAIRMAN



COMMISSIONER

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COMMISSIONER

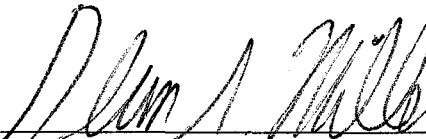


COMMISSIONER



COMMISSIONER

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17 IN WITNESS WHEREOF, I, DEAN S. MILLER, Interim
18 Executive Director of the Arizona Corporation
19 Commission, have hereunto set my hand and caused the
20 official seal of the Commission to be affixed at the
21 Capitol, in the City of Phoenix, this 27th day of
22 March, 2008.



DEAN S. MILLER

Interim Executive Director

1
2 DISSENT

3
4 DISSENT

5 This document is available in alternative formats by contacting Linda Hogan, ADA Coordinator,
6 voice phone number 602-542-3931, e-mail lhogan@azcc.gov.

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CONSENT TO ENTRY OF ORDER

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2 1. Respondents KENNETH HOWARD FRALEIGH AND LINDA JEAN FRALEIGH
3 ("RESPONDENTS") admit the jurisdiction of the Commission over the subject matter of this
4 proceeding. RESPONDENTS acknowledge that they have been fully advised of their right to a
5 hearing to present evidence and call witnesses and RESPONDENTS knowingly and voluntarily
6 waive any and all rights to a hearing before the Commission and all other rights otherwise
7 available under Article 11 of the Securities Act and Title 14 of the Arizona Administrative Code.
8 RESPONDENTS acknowledge that this Order To Cease and Desist, Order of Restitution, Order
9 for Administrative Penalties and Consent to Same ("Order") constitutes a valid final order of the
10 Commission.

11 2. RESPONDENTS knowingly and voluntarily waive any right under Article 12 of the
12 Securities Act to judicial review by any court by way of suit, appeal, or extraordinary relief
13 resulting from the entry of this Order.

14 3. RESPONDENTS acknowledge and agree that this Order is entered into freely and
15 voluntarily and that no promise was made or coercion used to induce such entry.

16 4. RESPONDENTS acknowledge that they have been represented by an attorney in
17 this matter, RESPONDENTS have reviewed this Order with their attorney, Trent D. Stewart, and
18 understand all terms it contains.

19 5. RESPONDENTS neither admit nor deny the Findings of Fact and Conclusions of
20 Law contained in this Order. RESPONDENTS agree that they shall not contest the validity of the
21 Findings of Fact and Conclusions of Law contained in this Order in any present or future
22 administrative proceeding before the Commission or any other state agency concerning the denial
23 or issuance of any license or registration required by the state to engage in the practice of any
24 business or profession.
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1 6. By consenting to the entry of this Order, RESPONDENTS agree not to take any
2 action or to make, or permit to be made, any public statement denying, directly or indirectly, any
3 Finding of Fact or Conclusion of Law in this Order or creating the impression that this Order is
4 without factual basis. RESPONDENTS will undertake steps necessary to assure that all of
5 RESPONDENTS' agents and employees understand and comply with this agreement.

6 7. While this Order settles this administrative matter between RESPONDENTS and
7 the Commission, RESPONDENTS understand that this Order does not preclude the Commission
8 from instituting other administrative or civil proceedings based on violations that are not addressed
9 by this Order.

10 8. RESPONDENTS understand that this Order does not preclude the Commission
11 from referring this matter to any governmental agency for administrative, civil, or criminal
12 proceedings that may be related to the matters addressed by this Order.

13 9. RESPONDENTS understand that this Order does not preclude any other agency or
14 officer of the State of Arizona or its subdivisions from instituting administrative, civil, or criminal
15 proceedings that may be related to matters addressed by this Order.

16 10. RESPONDENTS agree that they will not apply to the State of Arizona for
17 registration as a securities dealer or salesman or for licensure as an investment adviser or
18 investment adviser representative until such time as all restitution and penalties under this Order
19 are paid in full.

20 11. RESPONDENTS agree that they will not exercise any control over any entity that
21 offers or sells securities or provides investment advisory services within or from Arizona until
22 such time as all restitution and penalties under this Order are paid in full.

23 12. RESPONDENTS agree that they will not sell any securities in or from Arizona
24 without being properly registered in Arizona as a dealer or salesman, or exempt from such
25 registration; RESPONDENTS will not sell any securities in or from Arizona unless the securities
26 are registered in Arizona or exempt from registration; and RESPONDENTS will not transact

1 business in Arizona as an investment adviser or an investment adviser representative unless
2 properly licensed in Arizona or exempt from licensure.

3 13. RESPONDENTS agree that they will continue to cooperate with the Securities
4 Division including, but not limited to, providing complete and accurate testimony at any hearing in
5 this matter and cooperating with the State of Arizona in any related investigation or any other
6 matters arising from the activities described in this Order.

7 14. RESPONDENTS acknowledge that any restitution or penalties imposed by this
8 Order are obligations of FRALEIGH and the marital community of KENNETH HOWARD
9 FRALEIGH and LINDA JEAN FRALEIGH.

10 15. RESPONDENTS consent to the entry of this Order and agree to be fully bound by
11 its terms and conditions.

12 16. RESPONDENTS acknowledge and understand that if they fail to comply with the
13 provisions of the Order and this Consent, the Commission may bring further legal proceedings
14 against RESPONDENTS, including application to the Superior Court for an order of contempt.

15 17. RESPONDENTS understand that default shall render RESPONDENTS liable to the
16 Commission for its costs of collection and interest at the maximum legal rate.

17 18. RESPONDENTS agree and understand that if they fail to make any payment as
18 required in the Order, any outstanding balance shall be in default and shall be immediately due and
19 payable without notice or demand. RESPONDENTS agree and understand that acceptance of any
20 partial or late payment by the Commission is not a waiver of default by the Commission.

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Kenneth H. Fraleigh

Kenneth Howard Fraleigh, a married man

Linda J. Fraleigh

Linda Jean Fraleigh, a married woman

STATE OF ARIZONA)
) ss
County of)

Personally appeared before me this day of , 2008 an individual known to me to
be Kenneth Howard Fraleigh and acknowledged the execution of the foregoing instrument.

See attachment

NOTARY PUBLIC

Seal:

STATE OF ARIZONA)
) ss
County of)

Personally appeared before me this day of , 2008 an individual known to me to
be Linda Jean Fraleigh and acknowledged the execution of the foregoing instrument.

SEE ATTACHMENT

NOTARY PUBLIC

Seal:

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of Riverside

On March 5, 2008 before me, A. Paul, Notary Public

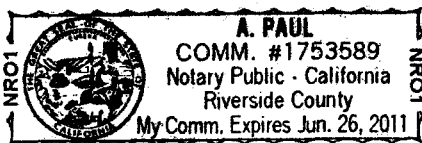
Date

Here Insert Name and Title of the Officer

personally appeared Kenneth Howard Fraleigh and Linda Jean Fraleigh

Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Place Notary Seal Above

Signature

Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: Order To Cease and Desist, Order of Restitution, Order for Administrative Penalties and Consent To Same

Document Date: NONE

Number of Pages: 12

Signer(s) Other Than Named Above: None

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

- ☐ Individual
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Attorney in Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: _____

Signer Is Representing: _____

RIGHT THUMBPRINT
OF SIGNER
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Signer's Name: _____

- ☐ Individual
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Attorney in Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: _____

Signer Is Representing: _____

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OF SIGNER
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